



The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

October 14, 2005

D.T.E. 01-106-C

Investigation by the Department of Telecommunications and Energy on its own motion, pursuant to G.L. c. 159, § 105 and G.L. c. 164, § 76, to increase the participation rate for discounted electric, gas and telephone service.

D.T.E. 05-55

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of the rates and charges set forth in the following tariffs: (Residential Assistance Adjustment Clause) M.D.T.E. No. 110 - Boston Edison Company; M.D.T.E. No. 210 - Cambridge Electric Light Company; M.D.T.E. No. 310 - Commonwealth Electric Company, filed on August 16, 2005, to be come effective September 1, 2005, by Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company, d/b/a NSTAR Electric.

D.T.E. 05-56

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 1089 - Residential Assistance Adjustment Provision, filed on July 25, 2005, to become effective September 1, 2005, by Massachusetts Electric Company and Nantucket Electric Company.

I. INTRODUCTION

On August 8, 2003, the Department of Telecommunications and Energy (“Department”) established a computer matching program to exchange information regarding customer eligibility for certain means tested public benefits¹ for the sole purpose of increasing the participation of eligible low-income customers in discounted electric and gas service.

Low-Income Discount Participation Rate, D.T.E. 01-106-A (2003). Because electric and gas distribution companies may incur a decrease in revenues from increased participation in the computer matching program, the Department found that it was appropriate to establish a reconciliation mechanism to recover any resulting revenue shortfall. Low-Income Discount Participation Rate, D.T.E. 01-106-B at 9 (2004); D.T.E. 01-106-A, at 18-19.

On August 16, 2005, Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company (together, “NSTAR Electric”), in compliance with D.T.E. 01-106-B, filed proposed tariffs, M.D.T.E. Nos. 110, 210, and 310, which would allow it to recover costs related to the low-income discount rate computer matching program.² On July 25, 2005, Massachusetts Electric Company and Nantucket Electric Company (together, “MECo”) filed a similar proposed tariff, M.D.T.E. No. 1086. The proposed tariffs

¹ Discounted rates for low-income gas and electric customers are available upon verification of a customer’s receipt of any means tested public benefit or verification of eligibility for the low-income home energy assistance program, for which eligibility does not exceed 175 percent of the federal poverty level based on a household’s gross income. See e.g. G.L. c. 164, § 1F(4)(i).

² On September 15, 2005, as part of its peak seasonal cost of gas adjustment filing, NSTAR Gas Company filed a proposed cost recovery mechanism similar to the mechanism filed by NSTAR Electric in D.T.E. 05-55.

have an effective date of September 1, 2005. On August 23, 2005, the Department suspended the tariffs for investigation until November 1, 2005. The NSTAR Electric tariff filing was docketed as D.T.E. 05-55. The MECo tariff filing was docketed as D.T.E. 05-56.

In order to establish a uniform cost recovery mechanism for all electric and gas distribution companies for costs related to the low-income discount rate computer matching program, the Department consolidated the investigation of D.T.E. 05-55 and D.T.E. 05-56 with its investigation of electric and gas distribution company compliance with the directives contained in D.T.E. 01-106-B. Low-Income Discount Participation Rate, D.T.E. 01-106-B/D.T.E. 05-55/D.T.E. 05-56, Notice of Filing and Public Hearing (August 30, 2005). The Department held a public hearing on September 16, 2005.

Immediately after the public hearing, the Department held a technical conference with interested persons to discuss the establishment of a uniform cost recovery mechanism. Following the technical conference, the Department sought comment on an alternative cost recovery mechanism ("Alternative Mechanism") designed to compensate electric and gas distribution companies for revenues lost as a result of increased participation in the low-income discount. Low-Income Discount Participation Rate, D.T.E. 01-106-B/D.T.E. 05-55/D.T.E. 05-56, Hearing Officer Memorandum (September 27, 2005). Comments were filed by the Attorney General of the Commonwealth ("Attorney General"), Bay State Gas Company ("Bay State"), The Berkshire Gas Company ("Berkshire"), Blackstone Gas Company ("Blackstone"), Fitchburg Gas and Electric Light Company d/b/a/ Unitil ("Unitil"), KeySpan Energy Delivery New England ("Keyspan"), MECo, the Massachusetts Community Action

Program Directors' Association and the Massachusetts Energy Directors' Association (together, "MASSCAP"), New England Gas Company ("New England Gas"), NSTAR Electric and NSTAR Gas Company (together, "NSTAR"), and Western Massachusetts Electric Company ("WMECo").

II. DESCRIPTION OF PROPOSED COST RECOVERY MECHANISMS

A. NSTAR and MECo

Under the NSTAR and MECo proposed cost recovery mechanisms, the companies would track individual customers enrolled on the discount rate as a result of the computer matching program (MECo Cover Letter, D.T.E. 05-56, at 1; NSTAR Cover Letter, D.T.E. 05-55, at 2) . NSTAR and MECo would calculate the difference between the distribution revenue for the usage of these customers under the discounted rate and the regular residential rate to establish a fully-reconciling adjustment factor applicable to all of the companies' customers (id.). MECo proposes to accumulate this revenue difference for a twelve-month period and accrue interest costs at the customer deposit rate. MECo would begin recovering this revenue difference through a Residential Assistance Adjustment Factor ("RAAF") after accumulating twelve months of actual data (MECo Cover Letter, D.T.E. 05-56, at 1). Alternatively, NSTAR Electric proposes to begin collecting this estimated revenue difference through a RAAF immediately, with any over- or under-recoveries to accrue interest costs at the prime interest rate (NSTAR Cover Letter, D.T.E. 05-55, at 2).

B. Alternative Mechanism

Under the Alternative Mechanism, all electric and gas distribution companies would establish a baseline amount of low-income discount that is collected through base rates for the twelve months ending June 30, 2005. The baseline amount would be calculated as the difference between the base rate revenues that would have been collected from customers receiving the low-income discount during the year ending June 30, 2005, had no low-income discount existed and the actual base rate revenues collected from low-income customers for the twelve months ending June 30, 2005. Low-Income Discount Participation Rate, D.T.E. 01-106-B/D.T.E. 05-55/D.T.E. 05-56, Hearing Officer Memorandum at 2-3 (September 27, 2005).

On or after July 1, 2005, any amount of low-income discount (whether customers are enrolled in the low-income discount rate through traditional outreach or the computer matching program) in excess of the baseline amount would be eligible for recovery through a RAAF. The adjustment factor would be calculated on a prospective basis, similar to the method proposed in the tariffs that were filed by NSTAR Electric in D.T.E. 05-55. Companies would forecast the expected low-income shortfall for the next twelve months. Any subsequent over- or under-recovery would be reconciled in the following year, with interest costs to be accrued at the prime interest rate. Id. In the event that a company's total low-income discount in a given year is below the baseline amount, no refund of any baseline amount will be due to ratepayers. Id.

III. POSITION OF THE COMMENTERS

A. Electric and Gas Distribution Companies

The electric and gas distribution companies are generally supportive of the Alternative Mechanism and its prospective calculation of the adjustment factor (Bay State Comments at 1-3, Berkshire at 2, Blackstone Comments at 1, KeySpan Comments at 1, MECo Comments at 2-4, New England Gas Comments at 1, NSTAR Comments at 1, Unitil Comments at 1, WMECo Comments at 2-4). While MECo does not oppose a prospective recovery mechanism, it argues that a retrospective mechanism is the simplest approach to comply with the Department's directives in D.T.E. 01-106-B (MECo Comments at 2).

With respect to the interest rate to be applied to any RAAF over- or under-recoveries, most distribution companies support using the prime interest rate (Bay State Comments at 2, Blackstone Comments at 1, New England Gas Comments at 1, NSTAR Comments at 2, Unitil Comments at 1, WMECo Comments at 3). However, MECo argues that the interest rate should be the same as each company's other reconciliation mechanisms accruing interest costs (in MECo's case, the interest rate on customer deposits) (MECo Comments at 3).

Likewise, most distribution companies support the calculation of the baseline amount and operation of the RAAF in the Alternative Mechanism (Berkshire Comments at 2, Blackstone Comments at 1, New England Gas Comments at 1, NSTAR Comments at 2, Unitil Comments at 1, WMECo Comments at 3-4). However, MECo proposes that the calculation of the baseline amount should be revised to reflect the revenue collected through base rates, rather than the amount of the discount provided to low-income customers (MECo Comments at

2-3). Bay State recommends that it be permitted to establish its baseline amount as of December 31, 2004, consistent with the end of the test year used to establish its proposed rates in its open rate case investigation, Bay State Gas Company, D.T.E. 05-27 (Bay State Comments a 2). Finally, Blackstone, New England Gas and WMECo suggest that weather normalized sales be used to establish the baseline amount (Blackstone Comments at 1, New England Gas Comments at 1, WMECo Comments at 3).

B. Attorney General

The Attorney General contends that two elements of the Alternative Mechanism should be amended, arguing that they are not in the best interest of customers (Attorney General Comments at 2). First, the Attorney General argues that the baseline for calculating the amount of low-income discount eligible for recovery through a RAAF should be the low-income discount amount currently included in non-low-income customers' base rates, adjusted for any change in billing determinants from the test year until the twelve months ending June 30, 2005 (id.). The Attorney General contends that this method will prevent distribution company shareholders from being harmed, while ensuring that the companies do not profit from the number of low-income customers (id. at 2-3).

Second, the Attorney General argues that, in order to ensure that the cost recovery mechanism is revenue-neutral, the Department should require the companies to refund to ratepayers any over-recoveries created when a company's total low-income discount is below the baseline amount (id. at 3).

C. MASSCAP

MASSCAP supports several of the terms of the Alternative Mechanism, including prospective calculation of the adjustment factor and use of the prime interest rate (MASSCAP Comments at 2, n.1). However, MASSCAP states that any cost recovery mechanism should leave gas and electric distribution companies economically indifferent to whether the total enrollment on the low-income discount rate increases or declines (id. at 2). While MASSCAP agrees that the Alternative Mechanism adequately ensures that distribution company shareholders will not be harmed if low-income discount rate enrollment increases, MASSCAP argues that the Alternative Mechanism creates a financial incentive for companies to tolerate declines in total low-income discount rate enrollment (id. at 2-3). To remove this incentive, MASSCAP argues that, in the event that a company's total low-income discount is below the baseline amount, a refund should be due to ratepayers (id. at 2-4).

IV. ANALYSIS AND FINDINGS

Currently, lost revenues from the traditional low-income discount program are designed to be recovered from all customers through base rates. See e.g., Boston Gas Company, D.T.E. 03-40, at 385 (2003). In establishing the computer matching program, the Department recognized that distribution companies may incur a decrease in revenues from increased enrollment in discount rates. D.T.E. 01-106-A at 13.

In D.T.E. 01-106-B at 9 (2004), the Department stated that "it is appropriate to establish a reconciling mechanism to recover any resulting revenue shortfall" from increased participation in discount rates once the computer matching program begins. Until a company's

next rate case, the Department stated that electric and gas companies “may recover revenues lost as a result of the low-income subsidy in their next reconciliation filing for electric companies or local distribution factor filing for gas companies.” Id. When calculating lost revenues associated with the low-income subsidy, the Department directed the companies to propose a reconciliation factor based on the difference between the total of forecast lost-revenues associated with the low-income discount and the amount of the low-income subsidy that was approved in the company’s last rate case or settlement, adjusted for any changes in sales and the number of low-income customers as of the effective date of the computer matching program.” Id. at 9-10. To this end, the Department offered an Alternative Mechanism for consideration.³

³ The Alternative Mechanism comprises the following elements:

- All RAAF tariffs will have an effective date of November 1, 2005.
- The adjustment factor will be calculated on a prospective basis, similar to the method proposed in the tariffs that were filed by NSTAR Electric in D.T.E. 05-55. Companies shall forecast the expected low-income shortfall for the next twelve months. Any subsequent over- or under-recovery will be reconciled in the following year.
- For gas companies, the reconciliation will occur concurrently with peak/winter LDAF filings. For electric companies, the reconciliation will occur concurrently with annual transition charge reconciliation filings.
- Over- or under-recoveries will accrue interest at the prime rate consistent with Department regulations. See 220 C.M.R. § 6.08(2).
- Companies shall establish a baseline amount of low-income discount that is collected through base rates for the twelve months ending June 30, 2005. The baseline amount shall be calculated as the difference between the base rate

(continued...)

There was widespread support for several elements of the Alternative Mechanism, including the establishment of a baseline amount of low-income discount that is collected through base rates, above which electric and gas distribution companies will be permitted to recover lost revenues from additional enrollment, whether through the computer matching program or through traditional means. We address other aspects of the Alternative Mechanism below.

MECo and the Attorney General request that the Department revise the Alternative Mechanism's calculation of the baseline amount of low-income discount that is collected through base rates. Rather than calculating the baseline amount as the difference between the base rate revenues that would have been collected from customers receiving the low-income discount during the fiscal year ending June 30, 2005, had no low-income discount existed and

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(...continued)

revenues that would have been collected from customers receiving the low-income discount during the year ending June 30, 2005, had no low-income discount existed and the actual base rate revenues collected from low-income customers for the twelve months ending June 30, 2005.

- On or after July 1, 2005, any amount of low-income discount (whether customers are enrolled in the low-income discount rate through traditional outreach or the computer matching program) in excess of the baseline amount will be eligible for recovery through the RAAF.
- In the event that a company's total low-income discount in a given year is below the baseline amount, no refund of any baseline amount will be due to ratepayers.

Low-Income Discount Participation Rate, D.T.E. 01-106-B/D.T.E. 05-55/D.T.E. 05-56, Hearing Officer Memorandum at 2-3 (September 27, 2005).

the actual base rate revenues collected from low-income customers for the year ending June 30, 2005, MECo and the Attorney General suggest that the baseline amount be set at the amount of the low-income discount that was included in base rates in each company's last rate case, adjusted for any increase in sales (MECo Comments at 3; Attorney General Comments at 2-3).

We are not convinced that this proposed change would improve the accuracy of the calculation of the baseline amount.⁴ In addition, the method described in the Alternative Mechanism is easier to implement in that it does not require that each company determine what level of discount was approved in its last base rate proceeding (which was nearly 15 years ago for some companies). Therefore, the Department directs all electric and gas distribution companies to calculate the baseline amount of low-income discount described in the Alternative Mechanism.

The Alternative Mechanism does not require companies to refund any amounts to ratepayers if a company's total low-income discount in a given year is below the baseline amount. Both the Attorney General and MASSCAP request that the Department change this provision, stating that it creates a financial benefit for company shareholders when there are declines in the total low-income discount rate enrollment (Attorney General Comments at 3; MASSCAP Comments at 2).

⁴ When rates were designed and the low income discount shortfall was allocated in each company's last distribution rate case, it was done using a rate base allocator, rather than allocated evenly across all rate classes.

The Alternative Mechanism is not intended to displace the ebb and flow of traditional ratemaking where revenues from the low-income discount program are designed to be recovered from all customers through base rates. Rather, the Alternative Mechanism addresses the short-term concern of a potential revenue shortfall from increased participation in discount rates, resulting from a change in Department policy, that was neither known nor measurable when base rates were established. Companies will recover costs through the RAAF until their next general distribution base rate case.⁵ As we stated in D.T.E. 01-106-B at 10, n.4, in each company's next rate case, we will consider whether to establish a fully-reconciling mechanism to collect the entire revenue shortfall from discount rates or whether it is more appropriate to resume collecting the entire shortfall from all customers through base rates. Accordingly, we decline to adopt the Attorney General's and MASSCAP's proposed change.

The Alternative Mechanism includes a prospective calculation of the low-income revenue shortfall. MECo suggests that the Department instead adopt a retrospective calculation of the low-income revenue shortfall (MECo Comments at 2). While we agree that the prospective method requires an additional reconciliation, the effort entailed is not burdensome. Therefore, we are not persuaded to adopt a retrospective calculation.

We expect that each distribution company will add a significant number of customers to the low income discount rate at the start of the computer matching program. The prospective method will allow companies to recover any resulting revenue shortfall immediately, as

⁵ We note that G.L. c. 164, § 94 rate proceedings are well underway or are pending filing for Bay State and NSTAR, respectively. Some flexibility, we anticipate, may be necessary to reflect the instant Order as it affects those companies' rate proceedings.

opposed to waiting up to one year to begin recovery with interest costs accruing every month. Therefore, to reduce the amount of deferrals accruing interest costs, the Department directs the companies to calculate the low-income revenue shortfall on a prospective basis as described in the Alternative Mechanism.

The Alternative Mechanism applies the prime interest rate to any over- or under-recovery of the low-income revenue shortfall. MECo suggests that the Department instead apply the interest rate on customer deposits for electric distribution companies (MECo Comments at 3). While it is correct that the Department's regulations at 220 C.M.R. § 6.08(2) concerning the prime interest rate only apply to gas distribution companies, the Department has in certain circumstances allowed electric distribution companies to apply the prime interest rate to over- and under-recoveries. See e.g., Boston Edison Company, D.P.U. 85-1C at 14 (1985). So that every distribution company calculates interest costs on a uniform basis, the Department directs all electric and gas companies to use the prime interest rate consistent with 220 C.M.R. § 6.08(2) when applying interest to any RAAF over- or under-recovery.

Blackstone, New England Gas, and WMECo raise the issue of weather normalizing the billing determinants used to calculate the low-income discount rate revenue shortfall (MECo Comments at 3; Blackstone Comments at 1; New England Gas Comments at 1). The Alternative Mechanism did not address adjustment for weather normalization. Such an adjustment would result in more accurate calculations for those energy sources that are substantially subject to the annual variability of weather. Therefore, the Department directs all gas distribution companies to weather-normalize the billing determinants used to calculate the

low-income revenue shortfall. Weather normalizing the billing determinants is consistent with the Department's ratemaking precedent for the setting of gas rates. Because billing determinants for electricity are not weather normalized, the Department finds that such an adjustment is not appropriate for electric distribution companies.

Bay State Gas Company requests that it be allowed to use December 31, 2004 as the cutoff date for calculating its baseline low-income revenue shortfall to correspond to the test year amounts included in its rate case filing which is presently under consideration by Department (Bay State Comments at 2-3). It is essential that the cutoff date for the baseline amount be as close as possible to the start of the computer matching program. As discussed below, all distribution companies will begin enrolling eligible customers in the low-income discount rate using computer matching data from the second quarter of this year. The cutoff date of June 30, 2005, as specified in the Alternative Mechanism, corresponds to the end of the second quarter of 2005. Therefore, we deny Bay State's request for an alternative cutoff date and instead direct it to apply the cutoff date as specified in the Alternative Mechanism.⁶

The Department is aware and appreciates that certain gas and electric distribution companies already have begun enrolling low-income discount rate eligible customers identified as a result of the computer matching program. We take this opportunity to confirm that these companies will not lose revenues by their decision to enroll eligible customers before the finalization of a cost recovery mechanism because, although the RAAF tariffs will have an

⁶ A Department Order in D.T.E. 05-27 will be issued on or before December 1, 2005. Bay State's recovery of any low-income revenue shortfall on a going-forward basis will be addressed in that Order.

effective date of November 1, 2005, any amount of low-income discount in excess of the baseline amount on or after July 1, 2005, will be eligible for recovery through the RAAF. For any gas and electric distribution companies that have not yet begun enrolling eligible customers identified as a result of the computer matching program on the low-income discount rate, the Department directs them to do so immediately, using the computer matching data generated as a result of the second quarter of this year. With the clarification regarding weather normalization of gas billing determinants discussed above, the Department adopts the Alternative Mechanism and directs each gas and electric distribution company to submit a Residential Assistance Adjustment Factor compliance tariff, consistent with the Alternative Mechanism, on or before October 17, 2005.

V. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the tariffs M.D.T.E. No. 110, M.D.T.E. No. 210, and M.D.T.E. No. 310, filed on August 16, 2005, to be come effective September 1, 2005, by Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company, d/b/a NSTAR Electric, are DISALLOWED; and it is

FURTHER ORDERED: That the tariff M.D.T.E. No. 1089, filed on July 25, 2005, to become effective September 1, 2005, by Massachusetts Electric Company and Nantucket Electric Company, is DISALLOWED; and it is

FURTHER ORDERED: That on or before October 17, 2005, all electric and gas distribution companies shall file Residential Assistance Adjustment Factor tariffs in compliance with this Order; and it is

FURTHER ORDERED: That all electric and gas distribution companies shall comply with all other orders and directives contained herein.

By Order of the Department,

/s/

Paul G. Afonso, Chairman

/s/

James Connelly, Commissioner

/s/

W. Robert Keating, Commissioner

/s/

Judith F. Judson, Commissioner

/s/

Brian Paul Golden, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.